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H. B. 3229

(By Delegates Skaff, Hatfield, Guthrie, Wells,
Brown, Poore, Manchin and Longstreth)

[Introduced February 21, 2011; referred to the
Committee on the Judiciary then Finance.]

10 A BILL to amend and reenact §3-3-2a and §3-3-3 of the Code of West
11 Virginia, 1931, as amended, all relating to community voting
12 locations; county clerk authorized to rotate community voting
13 locations; and the voting period for early in-person voting.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §3-3-2a and §3-3-3 of the Code of West Virginia, 1931, as
16 amended, be amended and reenacted, all to read as follows:

17 **ARTICLE 3. VOTING BY ABSENTEES.**

18 **§3-3-2a. Early voting areas; prohibition against display of**
19 **campaign material.**

20 (a) The county commission shall designate the courthouse or
21 annex to the courthouse as the primary location for early voting and
22 in addition, the commission may designate other locations as
23 provided in subsection (b).

24 (b) The county commission may, with the approval of the county
25 clerk or other official charged with the administration of
26 elections, ~~and the written agreement of the chairpersons of the~~

1 ~~county executive committees of the two major political parties,~~
2 designate additional community voting locations for early voting
3 other than the county courthouse or courthouse annex. The
4 additional community voting locations shall comply with the
5 requirements of this article for early in-person voting and criteria
6 prescribed by the Secretary of State. Notwithstanding the other
7 requirement to early in-person voting, the county clerk may
8 authorize rotating community voting locations, wherein a community
9 voting location may be utilized for less than the full period of
10 early in-person voting. The two major political party county
11 executive committees may designate a location to be used during the
12 early voting period determined in subsection (a), section three of
13 this article. Each location shall have an equal number of voting
14 days. Community voting locations shall be valid until changed or
15 appealed.

16 (c) The Secretary of State is hereby directed to propose
17 legislative and emergency rules in accordance with the provisions
18 of article three, chapter twenty-nine-a of this code as may be
19 necessary to implement the provisions of this section. The rules
20 shall include establishment of criteria to assure neutrality and
21 security in the selection of additional locations.

22 (d) Throughout the period of early in-person voting, the
23 official designated to supervise and conduct absentee voting shall
24 make the following provisions for voting:

1 (1) The official shall provide a sufficient number of voting
2 booths or devices appropriate to the voting system at which voters
3 may prepare their ballots. The booths or devices are to be in an
4 area separate from but within clear view of the public entrance area
5 of the official's office or other area designated by the county
6 commission for absentee voting and are to be arranged to ensure the
7 voter complete privacy in casting the ballot.

8 (2) The official shall make the voting area secure from
9 interference with the voter and shall ensure that voted and unvoted
10 ballots are at all times secure from tampering. No person, other
11 than a person lawfully assisting the voter according to the
12 provisions of this chapter, may be permitted to come within five
13 feet of the voting booth while the voter is voting. No person,
14 other than the officials or employees of the official designated to
15 supervise and conduct absentee voting or members of the Board of
16 Ballot Commissioners assigned to conduct absentee voting, may enter
17 the area or room set aside for voting.

18 (3) The official designated to supervise and conduct absentee
19 voting shall request the county commission designate another area
20 within the county courthouse, any annex of the courthouse or any
21 other designated as early in-person voting locations within the
22 county, as a portion of the official's office, for the purpose of
23 absentee in-person voting in the following circumstances:

24 (A) If the voting area is not accessible to voters with

1 physical disabilities;

2 (B) If the voting area is not within clear view of the public
3 entrance of the office of the official designated to supervise and
4 conduct absentee voting; or

5 (C) If there is no suitable area for absentee in-person voting
6 within the office.

7 Any designated area is subject to the same requirements as the
8 regular absentee voting area.

9 (4) The official designated to supervise and conduct absentee
10 voting shall have at least two representatives to assist with
11 absentee voting: *Provided*, That the two representatives may not be
12 registered with the same political party affiliation or two persons
13 registered with no political party affiliation. The representatives
14 may be full-time employees, temporary employees hired for the period
15 of absentee voting in person or volunteers.

16 (5) No person may do any electioneering nor may any person
17 display or distribute in any manner, or authorize the display or
18 distribution of, any literature, posters or material of any kind
19 which tends to influence the voting for or against any candidate or
20 any public question on the property of the county courthouse, any
21 annex facilities, or any other designated early voting locations
22 within the county, during the entire period of regular in-person
23 absentee voting. The official designated to supervise and conduct
24 absentee voting is authorized to remove the material and to direct

1 the sheriff of the county to enforce the prohibition.

2 **§3-3-3. Early voting in person.**

3 (a) The voting period for early in-person voting is to be
4 conducted during regular business hours beginning on the ~~twentieth~~
5 thirteenth day before the election and continuing through the third
6 day before the election. For any election held on a Tuesday, the
7 early voting period for in-person voting is to be available from
8 nine a.m. to five p.m. on the two Saturdays prior to the election.

9 (b) Any person desiring to vote during the period of early in-
10 person voting shall, upon entering the election room, clearly state
11 his or her name and residence to the official or representative
12 designated to supervise and conduct absentee voting. If that person
13 is found to be duly registered as a voter in the precinct of his or
14 her residence, he or she shall be required to sign his or her name
15 in the space marked "signature of voter" on the pollbook. If the
16 voter is unable to sign his or her name due to illiteracy or
17 physical disability, the person assisting the voter and witnessing
18 the mark of the voter shall sign his or her name in the space
19 provided. No ballot may be given to the person until he or she
20 signs his or her name on the pollbook.

21 (c) When the voter's signature or mark is properly on the
22 pollbook, two qualified representatives of the official designated
23 to supervise and conduct absentee voting shall sign their names in
24 the places indicated on the back of the official ballot.

1 (d) If the official designated to supervise and conduct
2 absentee voting determines that the voter is not properly registered
3 in the precinct where he or she resides, the clerk or his or her
4 representative shall challenge the voter's absentee ballot as
5 provided in this article.

6 (e) The official designated to supervise and conduct absentee
7 voting shall provide each person voting an absentee ballot in person
8 the following items to be printed as prescribed by the Secretary of
9 State:

10 (1) In counties using paper ballots, one of each type of
11 official absentee ballot the voter is eligible to vote, prepared
12 according to law;

13 (2) In counties using punch card systems, one of each type of
14 official absentee ballot the voter is eligible to vote, prepared
15 according to law, and a gray secrecy envelope;

16 (3) In counties using optical scan systems, one of each type
17 of official absentee ballot the voter is eligible to vote, prepared
18 according to law, and a secrecy sleeve; or

19 (4) For direct recording election systems, access to the voting
20 equipment in the voting booth.

21 (f) The voter shall enter the voting booth alone and there mark
22 the ballot: *Provided*, That the voter may have assistance in voting
23 according to the provisions of section four of this article. After
24 the voter has voted the ballot or ballots, the absentee voter shall:

1 Place the ballot or ballots in the gray secrecy envelope and return
2 the ballot or ballots to the official designated to supervise and
3 conduct the absentee voting: *Provided, however,* That in direct
4 recording election systems, once the voter has cast his or her
5 ballot, the voter shall exit the polling place.

6 (g) Upon receipt of the voted ballot, representatives of the
7 official designated to supervise and conduct the absentee voting
8 shall:

9 (1) Remove the ballot stub;

10 (2) Place punch card ballots and paper ballots into one
11 envelope which shall not have any marks except the precinct number
12 and seal the envelope;

13 (3) Place ballots for all voting systems into a ballot box that
14 is secured by two locks with a key to one lock kept by the president
15 of the county commission and a key to the other lock kept by the
16 county clerk;

17 (4) Due to the reenactment of this section by the Legislature
18 in the 2003 regular session removing authorization for early in-
19 person voting on the Monday prior to a Tuesday election, to assure
20 notice to all persons that voted on the Monday before the Tuesday
21 election day of the 2002 general election are made aware of this
22 change, the clerk of each county shall, for the primary election of
23 the year 2004, include along with the sample ballots published in
24 local newspapers as required by this chapter a notice to voters that

1 Monday in-person voting will no longer be available.

NOTE: The purpose of this bill is to designate additional community voting locations for early voting other than the county courthouse or courthouse annex. The bill further allows the county clerk to authorize rotating community voting locations so that a community voting location may be utilized for less than the full period of early in-person voting. The bill allows for the two major political party county executive committees to designate a location to be used during the early voting period, and that each location shall have an equal number of voting days. The bill further allows for early in-person voting to begin on the thirteenth day before the election and continue through the third day before the election.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.